

FRANCES KUNKEL

IBLA 82-1306, 82-1309,
82-1310, 82-1312,
82-1313, 82-1314

Decided December 16, 1982

Appeal from decisions of Nevada State Office, Bureau of Land Management, rejecting all or parts of noncompetitive oil and gas lease offers, N 24366, N 24367, N 24368, N 24372, N 24373, and N 24377.

Affirmed.

1. National Park Service Areas: Generally--Oil and Gas Leases:
Applications: Generally--Oil and Gas Leases: Lands Subject to

The Secretary of the Interior may, in his discretion, reject an offer to lease public lands for oil and gas deposits upon a proper determination that the leasing would not be in the public interest, even though the lands applied for are not withdrawn from operation of the Mineral Leasing Act. An oil and gas lease offer is properly rejected where the lands sought are within the Lake Mead National Recreation Area, and the National Park Service has declined, under 43 CFR 3566.3, to give consent to issuance of the lease.

APPEARANCES: Frances Kunkel, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Frances Kunkel appeals the Nevada State Office, Bureau of Land Management (BLM), decisions which rejected in whole or in part her noncompetitive oil and gas lease offers N 24366, N 24367, N 24368, N 24372, N 24373, and N 24377, for lands in T. 20 S., R. 66 E., and T. 20 S., R. 67 E., Mount Diablo meridian, Clark County, Nevada, because the lands are within the Lake Mead National Recreation Area and the National Park Service (NPS) had declined to give consent to the issuance of leases as to the rejected lands. NPS did consent to issuance of leases for some of the lands requested, subject to special stipulations which appellant accepted.

The lands which NPS declined to give its consent to leasing are all secs. 1, 2, 3, 10, 11, 12, 13, 22, 23, and 24, T. 20 S., R. 66 E., and N 1/2 sec. 4, N 1/2, SW 1/4 sec. 5, and all secs. 6, 7, and 13, T. 20 S., R. 67 E.

Appellant argues generally that it is inconsistent with the national energy problem and the multiple use concept of public domain lands to withdraw lands from oil and gas exploration just because of proximity to a scenic view, when both the view and other esthetic and recreational values attributable to the lease can be protected by proper stipulations.

As to the rejected lands in T. 20 S., R. 66 E., appellant alleges that sections 1, 2, and 3 lie along the northeastern projection of the Gale Hills/Shell Bowl of Fire anticlinal trend where significant oil and gas shows were encountered in Shell's Bowl of Fire #1 well in sec. 5. She asserts that secs. 11, 12, and 13 lie along the anticlinal axis of the faulted and untested Pinto Ridge anticline which could contain sizeable reserves of oil and gas. She states that sec. 22 is situated along the axial crest of the faulted Pinto Ridge anticline, contiguous to secs. 14 and 15 where her lease offer N 24368 has been accepted, subject to special stipulations. This section could contain numerous Mesozoic and Paleozoic reservoirs. She asserts that secs. 23 and 24 lie over a Tertiary unconformity that truncates Cretaceous reservoir sandstone and could yield sizeable oil and gas reserves. She argues that the topographic relief is sufficient to obscure any oil and gas developmental activities from the scenic viewpoints.

As to the rejected lands in T. 20 S., R. 67 E., appellant contends that portions of secs. 4, 5, 6, and 7 lie over a Tertiary unconformity that truncates a Cretaceous and Jurassic reservoir sandstone that could yield sizeable oil and gas reserves, and that most of secs. 4 and 5 cannot be seen from the Northside Road or Pinto Valley. Further, the portions of secs. 4 and 5 accepted for lease are more adaptable to public back-country use than the portions rejected. Access into areas under oil and gas lease is across sec. 6 via the Pinto Valley road. The topographic relief is such that oil and gas developmental activities could easily be screened from public observation by adherence to proper protective stipulations.

The Lake Mead National Recreation Area was established by the Act of October 8, 1964, 78 Stat. 1039, 16 U.S.C. § 460n (1976). The Secretary of the Interior is directed to administer the area for the general purposes of public recreation, benefit and use in a manner that will preserve, develop, and enhance the recreation potential and in a manner that will preserve the scenic, historic, scientific, and other important features of the area. Mineral leasing may be permitted only to the extent that will not be inconsistent with the recreational use.

Regulation 43 CFR 3566.3, 46 FR 62044 (Dec. 21, 1981), provides that oil and gas leases within a national recreation area shall be issued only with consent of the Regional Director, NPS, after his determination that the lease will not have a significant adverse effect upon the administration of the area pursuant to its authorizing legislation.

In response to the BLM requests, NPS, made these replies in memoranda dated January 14, 1982, and June 25, 1982:

N 24366, T. 20 S., R. 66 E.

Sections 1, 2, and 3 are in the area located north and adjacent to the Northshore Road in the Bitter Spring Valley area. The SE 1/4 of Section 1 is bisected by the road.

The area presents visitors traveling the Northshore Road scenic vistas of multicolored desert erosional cuts and exposed soils. During the spring season the area contains excellent displays of wildflowers. The Northshore Road is heavily traveled with recreational vehicles and travelers. We do not recommend leasing the three sections.

N 24367, T. 20 S., R. 66 E.

Section 13 is located in Pinto Valley, an area identified as an 'Outstanding Natural Feature' (ONF) in the Park's Statement for Management. Pinto Valley is a popular area for backcountry visitors and has significant scenic values. Section 13 is not recommended for leasing.

Sections 10, 11, and 12 encompass precipitous terrain and bracket the Northshore Road. All three sections are included in the area identified as ONF in the Statement for Management. Most of the area is in full view of the scenic Northshore Road. Sections 10, 11, and 12 are not recommended for leasing.

N 24368, T. 20 S., R. 66 E.

Sections 23 and 24 are located in Boulder Wash and Pinto Valley, both favorite areas of backcountry use. The area has been identified as ONF in the Lake Mead Statement for Management, and is of high scenic quality. The two sections are not recommended for leasing.

Section 14 has its southeast corner located in Pinto Valley and most of the section (80%) consists of rugged scenic escarpments overlooking Pinto Valley. The northwest corner has some potential as a drill site provided the construction is not visible from the Northshore Road. The remainder of Section 14 is not recommended for leasing due to its high scenic quality and rugged inaccessible terrain. NSO (No Surface Occupancy) might be considered if slant drilling is feasible.

Section 15 contains a narrow valley bordered by steep cliffs. The valley running southwest to northwest has some potential for leasing provided the operation would not be visible from the Northshore Road.

N 34372, T. 20 S., R. 67 E.

Section 6 is located at the northeast end of Pinto Valley and is designated ONF in the Statement for Management. Due to its high scenic value and use by backcountry visitors it is not recommended for leasing.

Sections 4 and 5 are located in broken terrain east of Pinto Valley. The southeast corner of Section 5 and the south half of Section 4 are available for leasing, with stipulations on drill site locations and access routes.

Section 13 is located in Manganese Wash and Miners Cove at the south end of the Overton Arm. The east edge of the section is inundated by the Lake and the remainder overlooks the shoreline. The area is a popular location for beach camping. Section 13 is not recommended for leasing due to its proximity to the lake and its use by the public.

N 24373, T. 20 S., R. 67 E.

Section 7 is located in rugged terrain at the east edge of Pinto Valley. Sections 16, 17, and 18 are located in a valley just north of Pyramid Peak.

Section 7 has its northwest quarter located in Pinto Valley, an area identified as ONF in the Statement for Management. The remainder consists of precipitous terrain. We do not recommend Section 7 for leasing due to its limited access and high scenic values.

Sections 16, 17, and 18 located within the valley are available for leasing, with stipulations on access routes and drill site locations.

N 24377, T. 20 S., R. 66 E.

The area is located north of Hamblin Mountain extending into the southwest end of Pinto Valley.

Section 19 is bisected by the Northshore Road in the northwest quarter with the northwest half in full view of the road. The southeast half is available for leasing with stipulations.

Section 20 has portions available for leasing with stipulations controlling access routes and drill site locations.

Section 21 has portions available for leasing with stipulations, except for the southeast quarter which is in Pinto Valley.

Section 22 is located within Pinto Valley. It is not recommended for leasing due to public use and high scenic values. Pinto Valley has been designated as ONF.

[1] Unless the Mineral Leasing Act or a withdrawal specifically provides otherwise, lands withdrawn for a specific purpose are available for oil and gas leasing if the issuance of a lease will not be inconsistent with or materially interfere with the purpose for which the land is withdrawn. Chevron, U.S.A., Inc., 52 IBLA 278 (1981). Here, where NPS has declined to give consent to issuance of a lease, based on a reasonable analysis of the problem, BLM may not issue an oil and gas lease for the land sought within the Lake Mead Recreation Area.

The Secretary of the Interior may, in his discretion, reject an offer to lease public lands for oil and gas deposits upon a proper determination that the leasing would not be in the public interest, even though the land applied for is not withdrawn from operation of the Mineral Leasing Act. BLM properly rejects an oil and gas lease offer where the land sought is within the Lake Mead National Recreation Area and NPS has declined, under 43 CFR 3566.3, to give consent to issuance of the lease. De Ann T. Gaeth, 69 IBLA 79 (1982).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

September 19, 1983

IBLA 82-1306, 82-1309, 82-1310	:	N 24366, 24367, 24368,
82-1312, 82-1313, 82-1314	:	24372, 24373, 24377
69 IBLA 205	:	
FRANCES KUNKEL	:	Oil and Gas
	:	

ERRATA

The following changes are made to the above-captioned decision.

Citations to 43 CFR 3566.3 on 69 IBLA pages 205 (headnote 1.), 206, and 209 are changed to citations to 43 CFR 3109.5-2(e) (1982) (now 43 CFR 3109.2(b)).

The provisions of 43 CFR 3566.3 and 43 CFR 3109.5-2(e) (1982) are identical; both require consent of the National Park Service (NPS) before the Bureau of Land Management may issue a lease in NPS areas. However, the latter regulation applied specifically to oil and gas lease offers, and the former applied more generally to offers to lease other minerals. Since this case concerned an oil and gas lease offer, 43 CFR 3109.5-2(e) (1982) applied and should have been cited.

Douglas E. Henriques
Administrative Judge

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69 IBLA 209A